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**IN THE CLAIMS**

Please cancel claims 46 and 54-56 without prejudice and amend claims 1, 40-45 and 47-53 as indicated in the following list of pending claims.

**PENDING CLAIMS**

1. (Currently Amended) A biopsy instrument for retrieving tissue specimen from surrounding tissue at a target site, ~~having a longitudinal axis and~~ comprising:

an elongated shaft having a longitudinal axis and a distal end adapted for entry into a patient's body by penetrating tissue; and

an elongated electrosurgical cutting element longitudinally disposed on a distal portion of the shaft proximal to the distal end which is actuatable between a radially retracted position and a radially extended ~~position~~ position and which is rotationally movable in said radially extended position to electrosurgically isolate a desired tissue specimen from surrounding tissue at the target site by defining a peripheral margin about said tissue specimen; and

an outer sheath slidably disposed about the shaft and configured for axial movement between distal and proximal positions for selectively covering and uncovering the electrosurgical cutting element.

2-39. (Cancelled)

40. (Currently Amended) ~~[[A]] The biopsy instrument assembly for isolating target tissue from an intracorporeal site, comprising[[:]] of claim 1 wherein~~

~~[[a.]] an elongate shaft which has a longitudinal axis and a distal end; and~~

[[b.]] ~~an elongated~~ the electrosurgical tissue cutting element which ~~is longitudinally disposed on the elongate shaft proximal of the distal end of the shaft, which is radially extendable from a retracted position to a radially extended position, which is configured to be rotated at least in part about the longitudinal axis in a radially extended arcuate position while~~ receiving receive electrical power from a high frequency electrical power source to electrosurgically isolate a desired tissue specimen from surrounding tissue by defining a peripheral margin about at least part of the tissue specimen when in the radially extended position.

41. (Currently Amended) The biopsy instrument assembly of claim 40 which includes an electrical conductor configured to electrically interconnect the electrosurgical tissue cutting element to the high frequency electrical power source.

42. (Currently Amended) The biopsy instrument assembly of claim 40 wherein the electrosurgical cutting element has a proximal end and a distal end and which is configured to move one end closer to the other end to effect radial extension from the retracted position to the radial extended position.

43. (Currently Amended) The biopsy instrument assembly of claim 42 wherein the electrosurgical cutting element is configured so that the distal end is fixed and the proximal end moves toward the distal end in order to radially extend the electrosurgical cutting element.

44. (Currently Amended) The biopsy instrument assembly of Claim 40, wherein the electrosurgical cutting element comprises a monopolar electrode.

45. (Currently Amended) The biopsy instrument assembly of Claim 40, wherein the electrosurgical cutting element comprises a bipolar electrode.

46. (Cancelled)

47. (Currently Amended) The biopsy instrument assembly of Claim 40, including a proximal driver unit for controlling radial expansion and retraction of the electrosurgical cutting element and rotation of the cutting element about the longitudinal axis.

48. (Currently Amended) The biopsy instrument assembly of Claim 47, wherein the proximal driver unit further controls axial movement of said shaft and axial movement of said sheath.

49. (Currently Amended) The biopsy instrument assembly of Claim 40, wherein the electrosurgical cutting element is configured to be manipulated to segment the tissue specimen.

50. (Currently Amended) The biopsy instrument assembly of Claim 49, wherein the electrosurgical tissue cutting element is configured to segment the tissue specimen after tissue specimen has been isolated from the surrounding tissue.

51. (Currently Amended) The biopsy instrument assembly of claim 49 wherein the tissue cutting element is configured to segment the tissue specimen as the tissue specimen is being retracted from said radially extended position to said retracted position.

52. (Currently Amended) The biopsy instrument assembly of Claim 51, wherein the radially extended position comprises a first radially extended position, and

wherein the electrosurgical cutting element is further actuatable to a plurality of additional radially extended positions and rotatable about the longitudinal axis in each of said radially extended positions to selectively peripherally segment said tissue specimen.

53. (Currently amended) The biopsy instrument assembly of Claim 50, and further comprising a cannula having a lumen for providing a passageway into the patient's body, the segments of the tissue specimen being removable from the patient's body through the cannula.

54. (Cancelled)

55. (Cancelled)

56. (Cancelled)